UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/C.12/1996/SR.37
29 November 1996

Original: ENGLISH

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Fifteenth session

SUMMARY RECORD OF THE 37th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 25 November 1996, at 10 a.m.

Chairperson: Mr. ALSTON

CONTENTS

RELATIONS WITH UNITED NATIONS ORGANS AND OTHER TREATY BODIES (continued)

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Third periodic report of Finland

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the meetings of the Committee at this session will be consolidated in a single corrigendum to be issued shortly after the end of the session.

GE.96-19327 (E)

The meeting was called to order at 10.15 a.m.

RELATIONS WITH UNITED NATIONS ORGANS AND OTHER TREATY BODIES (agenda item 7) (continued)

1. The CHAIRPERSON informed the Committee that he had been absent recently to participate in a seminar in Potsdam on the future of the human rights treaties. The seminar had been attended by experts and members of other treaty bodies and the experience had left him greatly encouraged about the Committee's own work. The Committee enjoyed a greater unity of spirit and the members' individual viewpoints never prevented them from achieving consensus.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 4) (continued)

Third periodic report of Finland (E/1994/104/Add.7; E/C.12/Q/FIN.1; HRI/CORE/1/Add.59/Rev.1)

2. At the invitation of the Chairperson, Mr. Salmenperä, Ms. Kaivosoja, Ms. Jouttimäki and Ms. Pietarinen (Finland) took places at the Committee table.

3. The CHAIRPERSON invited the head of the Finnish delegation to introduce his country's third periodic report (E/1994/104/Add.7).

4. Mr. SALMENPERÄ (Finland) said that there had been further developments in the field of economic, social and cultural rights since the submission of Finland's report in May 1995. There had been a declining trend in unemployment, which although still alarmingly high, at 15.1 per cent had fallen 9 per cent since 1995. Youth unemployment had dropped more rapidly - down 20 per cent from the 1995 level - and currently stood at 25.6 per cent. Long-term unemployment had decreased, owing to government-subsidized training and job placement programmes, but even so nearly a third of all unemployed persons had been out of work for more than a year. The decline in unemployment was expected to continue. Inflation, at 0.8 per cent, was the lowest in the European Union and interest rates had continued to fall. It remained to be seen whether the aim of halving the unemployment rate by the end of 1999 would be achieved.

5. New unemployment subsidy legislation, aimed at encouraging more active job-seeking and at making work even of short duration more lucrative than unemployment, as well as at preventing a systematic misuse of the unemployment security system, would come into force at the beginning of 1997. It was furthermore intended to secure the position of those who risked long-term or permanent exclusion from the labour market. There had also been a major change in working-time legislation. In addition to a simplification of the previous legislation, the enactment had introduced new elements of workers' protection concerning daily rest periods, maximum amounts of overtime and the right of workers to work shorter hours for personal reasons if they so wished.

It also provided greater flexibility for employers and employees' representatives to agree on exceptions to otherwise binding provisions regarding regular working time.

6. A total reform of Chapter II of the Finnish Constitution Act concerning fundamental rights, which applied explicitly to all persons within the jurisdiction of Finland, including non-Finnish nationals, had come into force in August 1995. The reform broadened and strengthened the constitutional protection of the rights of individuals in line with international human rights agreements. Social rights had been given greater protection than before and any reduction in social services therefore had to take account of the new provisions.

7. With regard to social welfare and health care, the comprehensive social security scheme included a guaranteed minimum income for those faced with social risks, such as illness and unemployment, and universal parental leave and child allowances. By international standards, the level of social security was high. Women's opportunities to seek employment had been facilitated and women had therefore been able to participate increasingly in social decision-making. Since, like social security, health care was financed by tax revenues, it was available to everyone free of charge or at very low cost. A private service system complemented public health care, especially in the large towns. Child day care, care of older persons and family counselling were provided as part of that system. There were also large-scale voluntary services. Welfare services were almost totally provided by the municipalities, with the State granting a 30 per cent subsidy. The municipalities had an independent right of taxation, which covered about half their expenditure. The tax revenues of both the State and the municipalities had, however, decreased and it had been necessary to raise taxation rates in order to cover social security costs, which were also partly financed by foreign debt. The costs of social welfare and health care had none the less had to be reduced in recent years, but since the economy had stabilized there was reason to believe that the welfare State would not be threatened in the future.

8. The recent recession had shown that the social security system was of vital importance; it had maintained the internal cohesion of society in the difficult employment situation. Reform concentrated on the activating features of social security, namely individual initiative and shared responsibility, including preventive action. Social policy, as well as providing a safety net, was a resource that had a favourable influence on the functioning of the economy. Its scope should therefore be proportional to financial capacity in order to maintain the competitiveness of the economy.

9. The comprehensive system of education, in both Finnish and Swedish, aimed to raise the level of education and to offer equal educational opportunities to all. Those aims had been largely realized. Almost everyone completed the compulsory nine years' schooling and over 90 per cent continued their studies in upper secondary schools or vocational schools. Curricula included international education in order to increase knowledge and understanding of different cultures. A new development was the establishment of so-called AMK institutions of professional and vocational higher education. Adult education had also expanded rapidly. Overall, women - especially

younger women - were better educated than men. The Government, which had shifted the focus of education policy from infrastructure to improved quality, had adopted its latest five-year plan, "Education and Research 2000", in December 1995.

10. Finland provided a high level of public funding of culture. A system of grants to artists offset the small size of the national market. The level of cultural participation was generally high and the use of public libraries was among the highest in the world. There was a wide network of cultural institutions. Women were particularly active in cultural life. The needs of minorities were also taken into account. The Swedish-speaking minority - about 6 per cent of the population - had a number of cultural institutions of its own, including a television channel, a radio channel and several theatres and newspapers, and some 600 books were published annually in Swedish. Special efforts were made to ensure that the Sami - an indigenous people - and the Roma could maintain their own traditional cultures. Interest in learning Sami, in particular, had increased after the language had received official recognition in 1991. Roma children had a right to study their language in school.

11. The CHAIRPERSON invited the Committee to refer to the list of issues (E/C.12/Q/FIN.1) to be taken up in connection with the consideration of Finland's third periodic report.

12. Mr. THAPALIA requested details of demographic, socio-economic and cultural indicators relating to the Sami, Roma and immigrants over the past few years, covering their racial composition, infant mortality, fertility rates, employment, literacy rates among both men and women, morbidity and per capita income. He would also like to know whether Finland had established a human rights commission and, if so, how it was constituted. Lastly, would Finland maintain its admirable human rights record by supporting the draft optional protocol to the Covenant?

13. Mr. TEXIER said that according to the Finnish League for Human Rights, the Covenant had not originally been accorded the same status as other human rights treaties. He understood that there were new laws incorporating the provisions of the Covenant, but he wondered whether the Covenant itself was considered by judges to have the force of law. He, too, wanted clarification of the Government's position on the draft optional protocol.

14. Mr. GRISSA asked about arrangements for the movement of nomadic peoples, such as those herding reindeer, across frontiers. Did they require passports and were there national frontiers?

15. Mr. SALMENPERÄ (Finland) said, in reply to Mr. Thapalia, that inasmuch as high-quality medical services were universally available, the situation of minorities with regard to morbidity and childbirth was good, but he had no detailed information to hand and would need to report back later. Regarding Mr. Texier's question, the Covenant had the same status as other international agreements; since its provisions were already enshrined in Finnish law it did not, for the purposes of the judicial system, need to be approved separately by Parliament. As to Mr. Grissa's point, not only the Sami and their reindeer herds but all Finns could travel freely, without passports, in the Nordic

countries. The problems of the Roma, who had first come to Finland in the sixteenth century, related less to passports than to housing and lack of employment, issues that affected them to a greater extent than other groups.

16. Ms. PIETARINEN (Finland), responding to Mr. Thapalia's queries, said that her Government's position regarding the draft optional protocol had been explained in its written answer to issue No. 4 of the list of issues. Finland did not have a human rights commission, but it did have an Advisory Board on International Human Rights Affairs, whose members included representatives of human rights organizations, women's associations, the Ministry of Foreign Affairs and the Ministry of Justice. The question as to whether there should be a human rights ombudsman was still under discussion.

17. The CHAIRPERSON said he took it from the earlier reply that the statement made by the Finnish League for Human Rights to the effect that the Covenant had a lower status than ordinary acts of Parliament was incorrect.

18. Mr. SALMENPERÄ (Finland) said that the Covenant did not have a lower status.

19. Ms. PIETARINEN explained that no specific legislation had been required to ratify the Covenant. It might have a lower status in theory, but the question of relative formal status made little difference in practice.

20. The CHAIRPERSON observed that according to one representative of Finland the Covenant enjoyed the same legal status as other instruments, while according to another it had a lower status.

21. Mr. SALMENPERÄ (Finland) said the fact that the Covenant had been ratified in a presidential decree meant that it formed part of Finnish law. It was placed on the same level as if it had been embodied in an act of Parliament and on the same level as other treaties and covenants.

22. Mr. ADEKUOYE asked whether the provisions of the Covenant or the provisions of domestic law would prevail in the event of a conflict between them.

23. Mr. GRISSA inquired whether it was correct to say that in Finland the President of the Republic was allowed to legislate and that presidential decrees had the same force as acts of Parliament.

24. Mrs. BONOAN-DANDAN said that Finland's response to issue No. 3 of the list of issues might be the result of a misunderstanding. The point was not whether Finnish courts had ever based their rulings on the provisions of the Covenant but whether those provisions had ever been invoked before them. To approach the matter from a different angle, what was the level of public awareness of the Covenant?

25. Mrs. JIMENEZ BUTRAGUEÑO asked why the Covenant did not have the same rank as the European Social Charter or the European Convention on Human Rights in the Finnish legal order.

26. Mr. CEAUSU said that he was fully satisfied with the way in which Finland had met its treaty obligation. In most countries, it was normal for the Parliament to ratify treaties, but in Finland the Covenant had been ratified by presidential decree, thus obviating the need for another enactment to give it effect. It was his understanding that the Covenant had not thereby been accorded a lower legal status and that its provisions could be invoked before the courts.

27. Mr. ALVAREZ VITA said that, in terms of its applicability in the domestic sphere, the Covenant appeared to be relatively weak and at a disadvantage compared with instruments of the European human rights system. It further seemed that the Covenant could easily be denounced. The delegation of Finland might wish to convey that concern to its Government.

28. Mr. SALMENPERÄ (Finland) thanked Mr. Ceausu for his clear analysis of the situation in Finnish law. There was no difference as between the treatment of the Covenant and other similar instruments by the courts, although the question of denunciation might be problematic.

29. Ms. PIETARINEN (Finland) said that the provisions of the Covenant could be invoked before the courts, but the Government remained unaware of any instance when a Finnish court had based its ruling on the Covenant.

30. Mr. TEXIER said that the reason why the European Convention on Human Rights was now treated almost as if it were domestic law in western European countries was that it was widely known among lawyers. The International Covenant on Economic, Social and Cultural Rights was not so well known, although knowledge of it would undoubtedly spread if the optional protocol came into force. Efforts were therefore required to make the Covenant better known.

31. Mr. SALMENPERÄ (Finland) said that Finnish lawyers were becoming more aware of the Covenant. As knowledge of it improved, its provisions would be increasingly invoked. The President of Finland did not have the same legislative powers as Parliament, but could make treaties binding.

32. Mrs. BONOAN-DANDAN, turning to articles 2 and 3 of the Covenant, asked whether any benefits were available to illegal immigrants and whether they had any means of legalizing their presence.

33. Mr. TEXIER noted that new provisions had been introduced in the Penal Code to counter discrimination in employment. Discrimination in housing and employment was notoriously difficult to prove and he would like to know whether any complaints had been made in those areas. Gender discrimination, it seemed, was dealt with by a separate ombudsman.

34. Mr. SALMENPERÄ (Finland) replied that illegal immigrants enjoyed a certain amount of financial support and had a special ombudsman to uphold their rights. A few cases had been brought under the new provisions against discrimination in the Penal Code. There had, of course, been similar provisions against discrimination in employment before, the main effect of the new legislation being to increase the penalties. It was still too early to judge how effective the new provisions would be. Unemployment in Finland was

very high and discrimination in employment against older people was a real problem. The special legislation and procedures relating to gender discrimination were more effective.

35. Mr. CEAUSU said that he wondered whether the reason why the Government had knowledge of so few cases of discrimination was that no proper statistics were compiled on the subject. It might be a good idea in general if the Committee were to suggest that States parties should adapt their statistical procedures to the requirements of the Covenant so that the situation in that regard would be clear. In Finland illegal immigrants seemed to enjoy the same rights as legal immigrants. In recent years, many western European countries had concluded agreements whereby illegal immigrants were expelled and were taken back by their countries of origin. Had Finland concluded any such agreements?

36. Mr. WIMER ZAMBRANO requested clarification of the difference in status between illegal and legal immigrants, especially regarding their enjoyment of economic, social and cultural rights.

37. Mr. AHMED said he was surprised that illegal immigrants had access to State aid in Finland when legally resident foreign students did not.

38. Mr. SALMENPERÄ (Finland) said that social assistance was granted to all persons in need. More information would be provided in due course.

39. Mr. AHMED requested clarification concerning a report by the Finnish League for Human Rights stating that foreign students and unemployed people were no longer covered by the residence-based social security system.

40. Ms. JOUTTIMÄKI (Finland) replied that the Supreme Court was currently examining the issue.

41. Mr. AHMED asked why pensions and unemployment benefits had been frozen when salaries and living costs were rising.

42. Mr. SALMENPERÄ (Finland) explained that the anomaly was temporary and due to the recession. Existing benefits and pensions were, however, adequate to meet basic needs.

43. Mrs. JIMENEZ BUTRAGUEÑO asked whether those people directly affected by the readjustments had been consulted. Could old-age, retirement and widow's pensions be claimed simultaneously? Also had there been any instances of fraudulent claims for invalidity pensions?

44. Mr. TEXIER, turning to article 6 of the Covenant, commented that the 12.5 per cent unemployment rate expected to be achieved by 1999 was still high. What measures were being implemented to address the problem of large-scale dismissals in companies contemplating restructuring, merging or introducing less labour-intensive technologies?

45. Mr. AHMED noted that unemployment in Finland had increased fivefold since 1990, according to an International Labour Organization (ILO) report. Could high youth unemployment be a factor in the number of youth suicides -

which amounted to as many as 50 per year in the 15 to 19 age group, and 100 a year among persons aged between 20 and 24, according to data from the Finnish national programme of action. What governmental measures were being taken in that regard?

46. Mr. SALMENPERÄ (Finland) said that legislation in effect since 1978 required firms employing more than 20 persons to hold negotiations for up to six months prior to any reduction in their workforce, with a view to considering such alternatives as the retraining of staff for other positions. The compulsory negotiation period had recently been shortened, but it still complied with European Union directives, a correlation between youth suicides and unemployment was hard to prove, but he shared Mr. Ahmed's concern. The Government was currently implementing youth training schemes.

47. Mr. CEAUSU, referring to article 7 of the Covenant, asked why Finland had not ratified the ILO Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106) and Minimum Wage Fixing Convention, 1970 (No. 131).

48. Mr. TEXIER inquired whether the issue of Sunday rest was as contentious an issue in Finland as it was in France. Did workers' representatives participate in the implementation of safety inspection systems?

49. Mr. AHMED said that he wondered whether, given the unemployment situation, the Government of Finland had not declined to ratify ILO Convention No. 106 concerning weekly rest specifically in order to be able to offer the unemployed greater opportunities for work. Also the absence of relevant legislation in Finland meant that the minimum level of remuneration was determined through collective bargaining. Perhaps Finland found it preferable to maintain that practice, which appeared to satisfy the needs of employers and workers alike, rather than set an artificial minimum wage level. Could that explain Finland's reluctance to ratify ILO Convention No. 131 concerning minimum wage fixing?

50. Mr. SALMENPERÄ (Finland) explained that the Finnish Committee which regularly reviewed unratified ILO instruments had recently noted that the minor legislative problems referred to in the written replies no longer constituted an obstacle to ratification of the Convention relating to weekly rest. The problem now remained a purely political one, which Finland would have to tackle in order to comply with its obligations as a member of the International Labour Organization.

51. As to the question of a minimum wage, Mr. Ahmed was right in some respects: Finland had a long-established tradition of social partners negotiating levels of remuneration and was reluctant to break with that tradition. The system had thus far proved to be fair and flexible and, contrary to expectations, had not resulted in low levels of remuneration. In fact, employers complained that wages were too high and did little to improve the unemployment situation. Problems might none the less arise when there was no collective agreement concerning a particular sector; in such cases, the principle that wages must be reasonable and allow for a decent livelihood was applied. Cases brought before the courts had on the whole been successfully resolved along those lines.

52. Replying to Mr. Texier's questions, he pointed out that legislation dating from 1973 required companies with at least 20 employees to allow the latter to elect a committee responsible for measures concerning occupational safety, including hazards at work and occupational diseases. Smaller companies were obliged to have a shop steward in charge of such matters.

53. As to the matter of Sunday work, new legislation stipulated that employees should be entitled to at least 25 hours of rest over the weekend. As a rule the period of rest should include Sundays, although in some occupations where that was not possible it fell on other days of the week. Since the legislation was fairly restrictive, requiring overtime to be paid for work on Sundays, which amounted to double pay, it could not be said that work on Sundays was more commonplace in Finland than in other European countries.

54. Mr. ADEKUOYE asked the Finnish delegation to explain why women apparently found it so difficult to reach top managerial positions.

55. Mr. SALMENPERÄ (Finland) said that, contrary to the impression given by the report, many women in Finland already occupied positions of responsibility, as borne out by the composition of the delegation. Perhaps the problem was that until recently those in charge of the recruitment of executives were mainly men themselves. However, the situation was rapidly changing, as current legislation required that at least 40 per cent of the members of official committees and bodies must be women. Moreover, women were now far better educated than men in Finland.

56. Ms. JOUTTIMÄKI (Finland) said that there would be greater equality between the sexes in future thanks to a number of amendments made the previous year to the Act on Equality between Women and Men. As a result, employers were now obliged to draw up action plans with the participation of employees to improve de facto equality in the workplace by uncovering elements of sexual discrimination. The action plans were to be assessed one year after implementation and modified, where necessary.

57. Mr. CEAUSU asked for clarification of the statement in the written replies to the effect that under the new Working Hours Act, the maximum amount of overtime would be 138 hours within a period of four months. Should that figure be multiplied by three to obtain the yearly limit for overtime? If so, it would appear to exceed the previous limit.

58. Mr. SALMENPERÄ (Finland) agreed that the information regarding overtime given in the written replies was rather misleading. The maximum overtime that could be worked in any four-month period was 138 hours but the annual limit was 250 hours.

59. Mr. CEAUSU remarked that the apparent increase in the amount of overtime allowed ran counter to the Government's objective to create employment. He would have welcomed additional statistics on overtime in the written replies, including the average number of hours of overtime worked in one year per employee.

60. Mr. SALMENPERÄ (Finland) said that the former legislation had, in fact, allowed a total of 480 hours' overtime in one year. The limits set under the new Working Hours Act therefore represented a considerable improvement in the situation, although it might not suffice to resolve the employment crisis. More detailed statistics on the subject could be submitted to the Committee in due course. Stopping overtime might generate new jobs but employers generally held the view that overtime could not be eliminated as a degree of flexibility in working hours was required. Although that might be true in some cases, it was felt that in certain enterprises overtime was being used as a means of avoiding the creation of new jobs. That had been one of the Government's main concerns when drafting the new Working Hours Act.

61. Mr. TEXIER inquired whether a reduction in the working week was being considered in Finland as a way of combating unemployment.

62. Mr. SALMENPERÄ (Finland) said that there was currently much debate on the issue of shorter working hours and various contradictory schools of thought had emerged. The Government had recently organized a seminar on the subject but had not drawn any firm conclusions as yet. A number of pilot schemes were under way to test the effectiveness of shorter working hours but it was anticipated that the results would show that a shorter working week could not provide a global solution.

63. Mr. WIMER ZAMBRANO observed that many speakers had failed to take into account the fact that, although unemployment rates in Finland were still high, they had decreased considerably of late as a result of measures taken by the Government.

The meeting rose at 1 p.m.